

State of South Dakota

EIGHTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 2009

538Q0629

CONFERENCE COMMITTEE ENGROSSED NO. **HB 1153** - 3/12/2009

Introduced by: Representatives Cutler, Bolin, Fargen, Frerichs, Krebs, Lust, Peters, Steele, Thompson, and Turbiville and Senators Gillespie, Dempster, Gray, and Novstrup (Al)

1 FOR AN ACT ENTITLED, An Act to revise the elements of the crime of indecent exposure
2 involving a child, to revise the elements of the crime of indecent exposure, and to establish
3 the crime of private indecent exposure.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 Section 1. That § 22-24-1.3 be amended to read as follows:

6 22-24-1.3. If any person, eighteen years of age or older, with the intent to arouse or gratify
7 the sexual desire of any person, intentionally exposes his or her genitals ~~under circumstances~~
8 ~~in which that person knows that his or her conduct is likely to annoy, offend, or alarm some to~~
9 a child, thirteen years of age or younger, that person is guilty of the crime of indecent exposure
10 involving a child. Indecent exposure involving a child is a Class 6 felony. A second or
11 subsequent conviction for indecent exposure involving a child is a Class 5 felony.

12 Section 2. That § 22-24-1.2 be amended to read as follows:

13 22-24-1.2. A person commits the crime of indecent exposure if, with the intent to arouse or
14 gratify the sexual desire of any person, the person exposes his or her genitals in a public place,



1 or in the view of a public place, under circumstances in which that person knows that person's
2 conduct is likely to annoy, offend, or alarm another person. A violation of this section is a Class
3 1 misdemeanor. However, if such person has been previously convicted of a felony violation
4 of § 22-22-1, 22-22-7, or 22-24A-3, that person is guilty of a Class 6 felony. Any person
5 convicted of a third or subsequent violation of this section is guilty of a Class 6 felony.

6 Section 3. That chapter 22-24 be amended by adding thereto a NEW SECTION to read as
7 follows:

8 A person commits the crime of private indecent exposure if:

- 9 (1) The person exposes the genitals of the person with the intent to arouse or gratify the
10 sexual desire of the person or another person;
11 (2) The person is in a place where another person has a reasonable expectation of
12 privacy;
13 (3) The person is in view of the other person;
14 (4) The exposure reasonably would be expected to annoy, offend, or alarm the other
15 person; and
16 (5) The person knows that the other person did not consent to the exposure.

17 Private indecent exposure is a Class 1 misdemeanor.

18 This section does not apply to a person who commits the act described in this section if the
19 person cohabits with or is involved in a sexually intimate relationship with the other person.